

REMARKS

A.) Allowable Subject Matter

Applicants would like to thank the Examiner for indicating that the subject matter of claims 7-10 and 22-25 is allowable.

B.) The Section 102 Rejections of Claims 1, 4, 12-19, 20 and 27-32

Claims 1, 4, 12-19, 20 and 27-32 were rejected under 35 U.S.C. §102(e) as being anticipated by Hrastar et al., U.S. Patent No. 6,286,058 (“Hrastar”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Each of the rejected claims includes the features of: (a) specifying routing information for an endpoint, wherein the routing information specifies the primary and alternative Internet Protocol (IP) addresses; and (b) communicating data to the endpoint using the specified primary IP address except during periods of service interruption, in which one of the alternative IP addresses is used.

In contrast, Hrastar does not disclose or suggest specifying alternative IP addresses for an endpoint nor using these alternative addresses to communicate data during periods of service interruption. In the Office Action the Examiner directs the Applicants attention to column 14, lines 11-62 of Hrastar to support the Examiners position that Hrastar does disclose this subject matter. However, this is not the case.

In column 14, lines 11-62 Hrastar describes two situations. The first situation is when an RF link, which connects a head-end 122 to a host's RF modem 106, is functioning properly. If so then a “destination IP address” is masked so that only a NetID 605 is used for routing. The second situation is when the RF link fails. When this occurs the masked IP address is “unmasked” and used as the destination IP address. Whether masked or unmasked this address is still only a single IP address. Thus, instead of disclosing and suggesting the use of alternative IP addresses when a service interruption occurs, Hrastar discloses the use of the same, albeit unmasked IP address when an RF link fails.

Because Hrastar does not disclose each element of the claims of the present invention Hrastar cannot anticipate these claims. Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 4, 12-19, 20 and 27-32.

C.) The Section 103 Rejections of Claims 2, 5, 19 and 21

Claims 2, 5, 19 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hrastar in view Nordman, U.S. Patent No. 6,061,346 (“Nordman”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Initially, Applicants note that claims 2, 5, 19 and 21 depend on independent claims 1, 4, 18 and 20 and are therefore patentable over the combination of Hrastar and Nordman for the reasons set forth above because Nordman does not overcome the deficiencies of Hrastar.

In addition, Applicants note the Examiners acknowledgement that Hrastar does not disclose the establishment of an IP tunnel to an endpoint using an alternative IP address nor forwarding data via an IP tunnel to an endpoint.

Further, Applicants respectfully submit that the combination of Hrastar and Nordman is impermissible because such a combination requires either one or both of these references to change their principle of operation, which is impermissible (MPEP 2143.01). For example, Hrastar is directed to a CATV system while Nordman is directed to a wireless system. Either Hrastar’s principle of operation would have to be changed so that it would be compatible with the wireless system of Nordman or Nordman’s wireless system would have to be changed to be compatible with the CATV system of Hrastar. Either is impermissible.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 2, 5, 19 and 21.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEN & PIERCE, P.L.C.

By

John E. Curtin, Reg. No. 37,602
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

JEC:ame